

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN M. GRUTTEMEYER, an individual,

Plaintiff,

vs.

THE TRANSIT AUTHORITY OF THE  
CITY OF OMAHA D/B/A METRO AREA  
TRANSIT, a Nebraska corporation,

Defendant.

CASE NO. 8:18-cv-70

**SUPPLEMENTAL MOTION TO STAY  
EXECUTION OF JUDGMENT PENDING  
APPEAL AND APPROVAL OF  
CERTIFIED CASHIER'S CHECK**

COMES NOW Defendant The Transit Authority of the City of Omaha d/b/a Metro Area Transit ("Metro"), and pursuant to Fed. R. App. P. 8 and Fed. R. Civ. P. 62, hereby supplements its original Motion to Stay Execution of Judgment Pending Appeal and Approval of Supersedeas Bond (Doc. 125), and requests approval of a certified cashier's check to be deposited with the Court and a stay of execution on the judgment entered in favor of Plaintiff John M. Gruttemeyer ("Gruttemeyer") in the above-captioned matter, pending the disposition of Metro's anticipated appeal to the United States Court of Appeals for the Eighth Circuit. In support of said Supplemental Motion, Metro states as follows:

1. On March 30, 2020, the Court entered judgment, pursuant to the jury verdict, in favor of Gruttemeyer and against Metro in the amount of \$139,540.94 (the "Judgment"). (Doc. No. 108).

2. On April 2, 2020, Metro filed a Renewed Motion for Judgment as a Matter of Law, or in the Alternative, Motion for New Trial (collectively, the "Post-Trial Motions"). (Doc. No. 109).

3. On April 30, 2020, in accordance with the Bill of Costs Handbook, the Court taxed to Metro Gruttemeyer's costs in the amount of \$2,517.20. (Doc. No. 121).

4. On May 29, 2020, the Court denied Metro's Post-Trial Motions. (Doc. No. 122).

5. On June 12, 2020, Gruttemeyer filed a Motion for Attorneys' Fees, requesting that the Court enter an additional judgment against Metro in the amount of \$103,054.50. The Court has not yet issued a ruling on Gruttemeyer's Motion for Attorneys' Fees.

6. Metro intends to pursue a timely appeal of the Judgment to the United States Court of Appeals for the Eighth Circuit. On June 29, 2016, Metro filed its Notice of Appeal with the Court. (Doc. 126).

7. Pursuant to Fed. R. App. P. 8, Metro moves this Court to stay enforcement of the Judgment pending appeal.

8. Pursuant to the Fed. R. Civ. P. 62, Metro may obtain a stay of the Judgment by providing a bond or other security.

9. Due to delays related to the COVID pandemic, Metro was unable to secure a supersedeas bond or letter of credit in a timely fashion.

10. However, in accordance with Fed. R. Civ. P. 62, Metro has secured a cash bond in the form of a certified cashier's check, made payable to the Court, in the amount of \$150,000.00 (the "Check"). A true and accurate copy of the Check is attached hereto as Exhibit "A" and incorporated herein by reference.

11. The Check amount is sufficient to provide security for the total amount awarded to Gruttemeyer, including interests and costs.

12. Upon the Court's approval of the Check as security for a stay of execution on the Judgment pending appeal, Metro will immediately deposit the Check with the Court. The Check will remain in the Court's possession until such time as the issues on appeal are resolved.

13. Metro requests an Order stating that no proceedings may be brought to enforce this Court's Judgment in favor of Gruttemeyer (both the underlying Judgment, interest, costs and any award of attorney fees) until 30 days after the final disposition of the appeal to be filed before the United States Court of Appeals for the Eighth Circuit.

WHEREFORE, Defendant The Transit Authority of the City of Omaha d/b/a Metro Area Transit respectfully requests that the Court enter an Order:

1. Approving the Check;
2. Allowing Metro to deposit the Check with the Court; and
3. Staying enforcement of the Judgment entered in favor of Plaintiff John M. Gruttemeyer, inclusive of interest, costs and any award of attorney fees, until 30 days after the final disposition of the appeal to be filed before the United States Court of Appeals for the Eighth Circuit.

Dated this 3rd day of August, 2020.

THE TRANSIT AUTHORITY OF THE CITY OF  
OMAHA D/B/A METRO AREA TRANSIT,  
Defendant

By: /s/ Ryan M. Kunhart

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Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Alexis S. Mullaney

alexis@carlsonburnett.com

/s/ Ryan M. Kunhart  
Ryan M. Kunhart



THE REVERSE SIDE OF THIS DOCUMENT INCLUDES MICROPRINTED ENDORSEMENT LINES AND ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW



1800200223

REMITTER:

DATE: July 09, 2020

27-85/1040  
9000011

Transit Authority of the City of Omaha

PAY TO THE

ORDER OF U.S. District Court District Court of Nebraska

\$ 150,000.00

\*\*\*\* One Hundred Fifty Thousand and 00/100\*\*\*\*DOLLARS

THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE, WATERMARK AND A THERMOCHROMIC ICON. ABSENCE OF THESE FEATURES WILL INDICATE A COPY.

**CASHIER'S CHECK**

FOR:

2 SIGNATURES REQUIRED FOR AMOUNTS GREATER THAN \$5000



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EXHIBIT

**A**